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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMES DANIEL ERSPAMER,

Plaintiff,

v.

STATE OF NEVADA, *et al.*,

Defendants.

3:16-CV-0465-RCJ-VPC

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE**

This report and recommendation is made to the Honorable Robert C. Jones, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

On August 4, 2016, plaintiff submitted a civil rights complaint pursuant to 28 U.S.C. § 1983 (ECF No. 1). Plaintiff failed to pay the filing fee or submit a request to proceed *in forma pauperis* (ECF No. 3).

On September 28, 2016, the court ordered plaintiff to either pay the filing or submit an application to proceed *in forma pauperis* on or before October 24, 2016. *Id.* Plaintiff was cautioned that failure to do so would result in a recommendation to the District Court to dismiss this action. *Id.* Plaintiff failed to respond to this court's order, and the order was returned to the court by the U.S. Postal Service and stamped "not here" (ECF No. 4).

Based upon the foregoing, the undersigned magistrate judge recommends that this action be dismissed without prejudice.

The parties should be aware of the following:

1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of Practice, the parties may file specific written objections to this Report and Recommendation within fourteen days of receipt. These objections should be entitled "Objections to Magistrate Judge's Report and

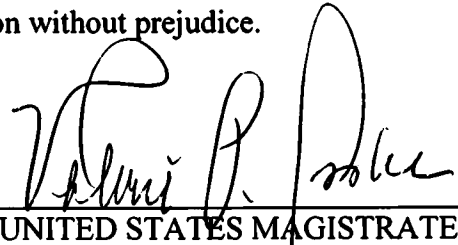
1 Recommendation” and should be accompanied by points and authorities for consideration by the
2 District Court.

3 2. This Report and Recommendation is not an appealable order and any notice of
4 appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court’s
5 judgment.

6 RECOMMENDATION

7 For the reason stated above, the undersigned Magistrate Judge recommends that the District
8 Court enter an order **DISMISSING** this action without prejudice.

9 DATED: November 1, 2016.

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12 UNITED STATES MAGISTRATE JUDGE
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